



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

The Petitions Committee

Completion Report

**Summary of the Petitions Committee's consideration of
P-03-098 Abolishing the name 'Ysgol Gyfun Rhydfelen'**

September 2009

Petition Received

14 January 2008

Ruled Admissible

January 2008

Initial Consideration**31 January 2008**

The Committee gave initial consideration to the petition, and agreed to await a response from the Minister for Children, Education, Lifelong Learning and Skills in relation to Lord Gwilym Prys Davies' letter.

(See Annex 1 for the relevant extract from the transcript of the meeting on 31 January 2008)

Further Consideration**10 April 2008**

The Committee considered responses from the petitioners and the Minister for Children, Education, Lifelong Learning and Skills, and agreed to ask the Enterprise and Learning Committee to consider whether it has the resources to investigate the change in legislation requested by Lord Prys-Davies.

(See Annex 1 for the relevant extract from the transcript of the meeting on 10 April 2008, Annex 2 for the response from the Minister for Children, Education, Lifelong Learning and Skills, and Annex 3 for the letter sent by the Chair to the Chair of the Enterprise and Learning Committee)

19 May 2009

The Committee considered a response from the Chair of the Enterprise and Learning Committee, and agreed to write to the Minister for Children, Education, Lifelong Learning and Skills to ask for her view on the Enterprise and Learning Committee's letter to the Committee.

(See Annex 1 for the relevant extract from the transcript of the meeting on 19 May 2009, Annex 2 for the letter sent to the Minister for Children, Education, Lifelong Learning and Skills, and Annex 3 for the response received from the Enterprise and Learning Committee)

22 September 2009

The Committee considered a response from the Minister for Children, Education, Lifelong Learning and Skills, and agreed to conclude its consideration of the petition and inform the Enterprise and Learning committee of its decision.

(See Annex 1 for the relevant extract from the transcript of the meeting on 22 September 2009 and Annex 2 for the response received from the Minister for Children, Education, Lifelong Learning and Skills)

Petitions Clerk
October 2009

Annex 1

Extracts from Petitions Committee transcripts

31 January 2008

Val Lloyd: We now move on to petition P-03-098, on amending legislation regarding school naming. This arose following the closure of our petition regarding Ysgol Gyfun Garth Olwg, which had run its course, so to speak. I am happy to open this up for discussion.

Bethan Jenkins: May I clarify, is this a new petition from the Lord in question?

Val Lloyd: No, this is a petition from Mr Emlyn Penny-Jones, chairman of the governors of Ysgol Gyfun Garth Olwg. I do not know what Members think, but I think that we have already taken the action that has been requested. When we closed the previous petition, we had already requested that Lord Gwilym Prys-Davies's suggestion be passed to the relevant Minister. We have done what is asked of this committee already, so there is no further action that we can take.

Andrew R.T. Davies: I would be minded, if possible, Chair, to hold it in abeyance while we await the Minister's response, because that response will be interesting. I believe that it was the sentiment around the table here that it was a tragedy for all concerned that consensus could not be reached, and there was a desire—and correct me if I am wrong—for some sort of remedial action be taken so that governing bodies could be empowered to determine their own destiny and school name. It seems early to close this one until we have the letter back from the Minister, because it could be that the letter does not provide satisfaction in terms of what we aspire to do and, through this petition, we might have the opportunity to take it down another route.

Val Lloyd: I remember that you spoke very eloquently on this at the last meeting. I will just check to see whether that is what the petition asked. It says:

'We wish to support his request...if you could forward a copy of these comments, together with our names'—

No, that is about forwarding it to the Petitions Committee. I think that it supports the letter from Lord Prys-Davies, as I said, but if you wish to hold it until the response comes back—

Andrew R.T. Davies: Perhaps we can hold it in abeyance until we have heard back from the Minister. If it is still open, it will encourage us to chase the Minister should the reply not come quite as speedily as we would hope.

Bethan Jenkins: For clarification, in the last meeting, we decided to send the letter to the Minister, but was there any obligation for the Minister to reply to us, given that we had closed the petition?

Val Lloyd: No, I imagine that the Minister would reply to any letter that is sent to her. I would expect the reply to come to the committee and, as a matter of course, I would share it with the committee.

Bethan Jenkins: I only ask because we closed the petition. I was a bit unclear, on leaving the committee meeting, whether we had—

Val Lloyd: We closed the petition because what the petitioners requested had been answered but, because we had had an extra letter from Lord Prys-Davies, we had also followed that lead, rather than leave it in abeyance. We tried to be as helpful as we could and passed on that letter with the request that the Minister consider it and take it forward.

Bethan Jenkins: In that case, I agree with Andrew, because it would seem odd if we were to have a reply and had already closed the petition, so we should keep it open for now.

Val Lloyd: Okay. I am trying to clarify at the end of each item what we have decided. So, we will keep the petition open until we have a response from the Minister and then we will consider that response.

10 April 2008

Val Lloyd: The last petition in this section is that of Ysgol Gyfun Gartholwg.

Bethan Jenkins: I will use my discretion and say that I am disappointed with the Minister's response.

Andrew R.T. Davies: She is your Minister.

Bethan Jenkins: I do not care; I am disappointed with her response. Even though it is only one school, I believe that it has been a massive problem for the school. Therefore, it could have been taken into consideration for future reference. It seems odd that she has said that this may stop confusion when two schools have the same sites, when this is the very problem that exists in this area. There is a primary school with the name Garth Olwg, and a secondary school that has the same name. So, I do not understand the fourth paragraph. However, I do not see where else we can take it, because of the Minister's position. Apart from writing to her again, I do not see what else can be done, unless the petitioners take another route. Can anyone else think of anything?

Michael German: Since the Government is not prepared to take the legislation forward, either a committee or an individual Member could take legislation forward. I do not know whether the view of the committee is that this is something that it might want to do, but I commend an individual Member who might want to promote the legislation.

Andrew R.T. Davies: I have sympathy with what Mike has said. I find it odd that a school that unanimously wants to retain its name—of which we have seen passionate and powerful evidence—cannot do so. I appreciate that, from what I have seen, no-one has broken any rules or regulations. However,

the authority holds the power to tell the school what it wants it to be called. There seems to be an anomaly when the wishes of the school and those of the community can be overridden. As far as this petition is concerned—and we can grandstand as much as we want—there is not a lot that we can do. However, there may be merit in referring it to the Enterprise and Learning Committee to look into the anomaly that schools do not have this power and to consider whether there is a way of changing the law through an individual AM—as Mike suggested—or through a committee. I would have thought that it would be worth the Enterprise and Learning Committee looking at this to try to empower schools to get that power back in their own hands.

Val Lloyd: The Minister had given us her answer previously, but we did not close the petition because we had asked for the letter from Lord Prys-Davies to be considered. This letter is a response to that. So, the Minister reiterates the fact that it is currently in law for the local authority to decide on this, and she will not take Lord Prys-Davies's request forward. I think that this is a case for an individual Member to try to do something about it.

Michael German: There is no harm in referring it to the committee. We could say that the Minister has determined that there is to be no change in legislation from the Government side, that, as a committee, we know that it would be open to any Member or any committee to move forward on changing the legislation, and that we forward this petition for consideration. We would not be making any recommendations as to what that committee might do, but I am sure that it would not mind looking at it.

Val Lloyd: No.

Bethan Jenkins: However, it is also something that could be considered for a minority party debate, or something that individual Members could propose for Plenary.

Michael German: Yes, but the way to get change is to change the legislation. That is what we have to do here—

Val Lloyd: We cannot suggest a Member to take this on, but we can pass it to a committee. I know that it is in the public domain now, and if a Member wants to take it up, then that is all well and good, but we must be a little more formal, and so we will pass this to the Enterprise and Learning Committee. Is everyone happy with that?

Mr Sanchez: Are we closing the petition after we have passed it on for consideration by that committee? Or are we expecting the committee to reply to us?

Michael German: It is always helpful to have a reply, saying what is to be done; at least we know where we are then.

Bethan Jenkins: We could then close it.

Val Lloyd: Yes.

19 May 2009

Val Lloyd: We have 10 updates to previous petitions to deal with this morning. The first is P-03-098 on abolishing the school name 'Ysgol Gyfun Rhydfelen'.

Michael German: We are waiting for Bethan to say something. [*Laughter.*] The key to this is that the Government is not prepared to take any action. The answer, it seems to me, is that some change to the regulations or whatever is needed to allow a school to make its own decision in these matters. The Government has said 'no' to that, and I do not know what more we can do. We could continue to press the Government. The letter from the Chair of the Enterprise and Learning Committee is very strong indeed, and I support him with regard to the grave nature of the concerns that he raises. The response that he has had, however, basically closes the door.

Val Lloyd: He acknowledges that, does he not?

Michael German: Has there been a reply to his letter of 29 April? We have the reply from the Government of 18 July last year, so I do not know whether there is a later reply. If Gareth has not had a reply to his letter of 29 April, we should perhaps wait to see what reply comes.

Val Lloyd: We should ask Gareth whether he has had a reply, and if he has, we can bring it to the next meeting. I would imagine that, by then, he will have had a reply.

Andrew R.T. Davies: It is a great disappointment that a school cannot choose its name. I appreciate that, under the procedures that we have in place at the moment, if the Government does not want to move on the issue, it is its prerogative. Given the power of the evidence before us and likeminded people on other committees, however, I hope that if we were to close this petition at a later juncture—I appreciate that we are going to wait for the Chair of the Enterprise and Learning Committee—we could make our views known to the Government. This was a very emotive petition, which gained significant support. I think that most people would say that it is right that a school should have its own policy to determine a matter such as this.

Val Lloyd: I agree. The Minister's point is that it is not for her to decide; it is a decision between the local authority and the school. The school contends that consultation did not take place as it should have. There is a protocol for dealing with local authority issues, as we all know to our cost.

Michael German: I am sorry, Chair, but I have probably misled the committee a little. I did not want to mention this earlier, but the letter dated 29 April is addressed to you, of course. I suppose that there has not been a letter from Gareth Jones to the Minister—he has just copied it to her. So, you might have to write to the Minister to ask for comments in response to Gareth Jones's letter, and ask whether she is prepared to look again at the Government of Maintained Schools (Wales) Regulations 2005, which is the guiding piece of legislation behind it.

Val Lloyd: I will write back to Gareth Jones as the Chair, because he has been dealing with the Minister on this issue. The right thing to do would be for me to write to him asking whether he has received a reply.

Bethan Jenkins: The way in which the current petition is worded is not unfortunate, but Gareth Jones has said that the committee has tried to go through these processes. The current situation has arisen because of the way in which the consultation process took place, but that is not in the wording of the petition. However, that is how the petitioners should progress if the petition is closed, based on how schoolchildren and school governors have felt alienated from the whole process in this regard.

Val Lloyd: Unfortunately, that is not a matter for us. The consultation process is between the local authority and the school.

Andrew R.T. Davies: You will be writing to the Chair of the Enterprise and Learning Committee; I assume that he would not have received a response from the Minister, because this letter was sent to your good self, as Chair, rather than to the Minister. So, the Minister has probably not even had sight of this letter.

Val Lloyd: Yes, he has copied it to her.

Andrew R.T. Davies: You said that you would write to the Chair to see whether he has received a response—

Michael German: The Government Minister would not necessarily reply to either letter, because it was copied and not addressed. That was the point that I was trying to make.

Andrew R.T. Davies: We just need clarification on it. The letter needs to be addressed to the Minister for the Minister to reply. It is a bit like a *Yes, Minister* sketch. [*Laughter.*]

Michael German: In the letter from the Minister to Gareth Jones on 18 July 2008, the last paragraph—I am setting Joanest up with a long question here—refers to the regulations. The Assembly Government's legal service said that it already has the powers to achieve the amendments. I do not know which amendments we are talking about; are they the amendments that would allow a school a definite role in specifying its own name? What are the amendments referred to in that paragraph?

Ms Jackson: I think that the point that the Minister is making in her letter of 18 July is that she has some executive powers to make amendments to the current regulations. However, there is a suggestion in the letter written by the Chair of the Enterprise and Learning Committee that bringing forward Measures under the powers currently available under the Government of Wales Act 2006 would allow for something that goes further than the amendments that could be made under the Minister's current executive powers. That is my reading of it, but we can look at it further if you wish.

Michael German: In her response to Gareth, perhaps Val could also clarify that as well.

Val Lloyd: The Minister says, in the penultimate paragraph, that the regulations have been in place for three years and will, no doubt, be reviewed at a future date, and that consideration can be given then to amending the legislation. I will write as requested.

22 September 2009

Val Lloyd: The next petition, P-03-098, is on abolishing the school name 'Ysgol Gyfun Rhydfelen'. This issue has been with us in some form or other for some considerable time. I think that we formally considered it in January and April 2008 and May 2009. We have had further responses. What are the committee's wishes?

Bethan Jenkins: I do not think that it can be taken any further. It is disappointing that the Minister could not recognise the fact that people in the school felt that their feelings were being ignored or disregarded. She has had information to advise her that the appropriate channels of consultation were followed, but I think that this undermines the views of the school council, which, evidently, felt differently. While I understand and acknowledge her response, I am nonetheless disappointed. However, I do not think that we can take the matter any further if the Minister is not willing to change the guidelines in any way, shape or form. I do not know what else we as a committee can do.

Michael German: The only issue, it seems to me, is that, back in his early letter to you, Val, of 29 April, Gareth Jones reaches the same conclusion that Bethan has just reached, but he also says that the only option remaining would be to have legislation proposed by a Member or committee. That option is still available to that committee. I think that we have simply to say that it is our intention to close this petition, refer it back to that committee, and say, 'We note your view that there could be legislation proposed by a Member or committee, and that is a matter for your committee; perhaps you wish to reconsider the issue as a committee'.

Val Lloyd: I think that that is all we can do, really. Andrew, do you have anything to add?

Andrew R.T. Davies: I vividly recall the petitioners coming in and giving evidence, and the way in which the head boy, in particular, gave a very articulate account of how the school had progressed the argument, with the involvement of the school council and the community. We talk time and again in this institution about community involvement and the desire to promote school councils, and it is a source of bitter regret on my part that common sense and the wish of the school and the school council could not prevail in this matter. It would be a shame to lose the work done here—I respect the Minister's view on this; she has had information telling her what is happening, and it is her role as Minister to make the decision. However, I think that there is scope in future for some form of legislation or regulation to be passed to allow schools to operate with a degree of autonomy and, in particular, to reflect the wishes of the community and the school council. I would support Mike and Bethan in their proposal to try to push this back to the Enterprise and Learning Committee to see whether its members wish to take it up.

Bethan Jenkins: I do not know whether anybody else knows, but a review of school governance is currently under way.

Val Lloyd: Yes. The Minister mentions it in her letter.

Bethan Jenkins: Is that something that we can consider?

Ms Jackson: I would point out the significant amount of paperwork attached to this matter. Also, the Minister has indicated that she does not require any legislation to be passed to allow her to make changes to the regulations. Therefore, an executive power exists, but it does not, of course, preclude pushing for something at a higher level, but I make that point to make the information clear.

Michael German: With regard to legislation, the Assembly is paramount, and its backbenchers are always in the majority.

Val Lloyd: I note that, in her letter to us of June this year, the Minister says that she has been advised that, since the matter first arose, a new headteacher has been appointed, and that she is content with the name of the school. We should remember that the current policy was followed, however, in that the LEA consulted on the proposals and the governing body and the LEA could not agree—I understand the predicament that both sides found themselves in. As the legislation stands, under such circumstances, the LEA has the right to decide. We have given this petition a good airing, and we all understand the reasons behind why it was proposed. So, we will formally close it, and perhaps write to the Enterprise and Learning Committee, as Mike suggested.

Annex 2

Jane Hutt AC/AM

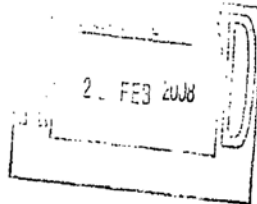
Y Gweinidog dros Blant, Addysg, Dysgu Gydol Oes a Sgiliau
Minister for Children, Education, Lifelong Learning and Skills



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Eich cyf/Your ref P-03-071
Ein cyf/Our ref JH/00220/08

Val Lloyd AM
Chair
Petitions Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA



27 February 2008

Dear Val,

PETITION – YSGOL GYFUN GARTH OLWG

Thank you for your letter of 31 January 2008 regarding a second petition that has been submitted to the Petitions Committee about Ysgol Gyfun Garth Olwg. You have also sent me a copy of a letter your Committee has received from Lord Gwilym Prys-Davies and asked for my comments.

I note from your letter that your committee members are aware of the situation involving the naming of Ysgol Gyfun Gartholwg, formerly known as Ysgol Gyfun Rhydfelen, as the matter was considered and debated at its meeting on 6 December 2007. Your Committee's conclusion at that time was that under current legislation in the Government of Maintained Schools (Wales) Regulations 2005, the power to determine the name of a school, in the event of a dispute between the school and the maintaining LEA, rests with the LEA. However, your Committee also took the decision not to formerly close the matter pending a response from me to the letter from Lord Gwilym Prys-Davies.

I understand the concerns of Lord Prys-Davies, and others involved in the complaint sent to the Welsh Assembly Government about the naming of Ysgol Gyfun Gartholwg. I appreciate that in this case people who wanted to retain the school's former name have felt that it is not appropriate that an LEA has the final decision making power. You will appreciate that somebody has to have this power. I remain of the opinion that this power should continue to rest with the LEA. This one case does not mean that the legislation is not right or is ineffective.

The law covering instruments of government introduced in the School Standards and Framework Act 1998 was not contentious and worked well for schools and LEAs. For that reason the Welsh Assembly Government did not amend the legislation when making the 2005 school government regulations and no concerns were raised during consultation on the regulations. Giving LEAs responsibility for confirming the name of a school means that the possibility of two schools having the same or very similar names in one locality is avoided.

Bae Caerdydd • Cardiff Bay
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My officials have also confirmed that apart from the Ysgol Gyfun Gartholwg case, no other correspondence or representations of this kind has arisen previously expressing concerns over the process for reviewing a schools instrument of government and the responsibilities of the LEA and governing body. I therefore have no plans to amend the legislation in the Government of Maintained Schools (Wales) Regulations 2005 in respect of instruments of government for schools.

I hope this letter clarifies the position for your committee and Lord Prys - Davies.

Best Wishes,

Jane

Y Pwyllgor Deisebau

Petitions Committee

Jane Hutt AM
Minister for Children, Education,
Lifelong Learning and Skills
Welsh Assembly Government
Cardiff Bay
CF99 1NA

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff CF99 1NA

Our ref: PET-03-098

05 June 2009

Dear Jane

PETITION - NAMING OF SCHOOLS

The Petitions Committee has recently received a letter from the Chair of the Enterprise and Learning Committee regarding the petition calling for a change in the law to allow the naming of a school to be determined by its governors, rather than the local authority.

The Petitions Committee would be grateful if you could consider this letter (copy enclosed) and respond to the points made in it.

Thank you for your continued consideration of this matter and I look forward to receiving your response.

Yours sincerely



Val Lloyd
Chair, Petitions Committee
Enc. Letter from the Chair of the Enterprise and Learning Committee

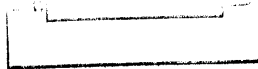
Jane Hutt AC/AM
Y Gweinidog dros Blant, Addysg, Dysgu Gydol Oes a Sgiliau
Minister for Children, Education, Lifelong Learning and Skills



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Eich cyf/Your ref PET-03-098
Ein cyf/Our ref JH/00831/09

Val Lloyd AM
National Assembly For Wales
Cardiff Bay
Cardiff
CF99 1NA



22nd June 2009

Dear Val,

Thank you for your letter dated 5 June enclosing a copy of a letter you have received as chair of the Petitions Committee from Gareth Jones, AM, chair of the Assembly Government's Enterprise and Learning Committee about the situation at Rhydfelen School.

You have specifically sought my views on two issues that Gareth Jones has raised, namely that appropriate democratic channels of consultation (concerning the change of school name) are being disregarded; and this is undermining the fundamental relationship between pupils and teachers as well as between governors and the LEA.

I have previously received correspondence from both you and Gareth Jones on various issues raised over the naming of Ysgol Gyfun Gartholwg and have responded by giving detailed explanations to clarify the situation. I have been advised that appropriate democratic channels of consultation (concerning the change of school name) were not being disregarded. The change of school name took place about two years ago. At that time the LEA consulted on their proposals to change the name of the school and gave the governing body a sufficient opportunity, as is required by the 2005 school government regulations, to consider the name change. The LEA and governing body could not agree on the school's name. In these circumstances the LEA has the power under current law to make the final decision. The decision on naming the school has therefore been lawfully made and there is no need for the LEA to continue to consult anyone on the matter.

On the issue of the relationship between pupils, teachers, governors and the LEA being undermined, there is a risk that bad feeling will hold the school back. I have been advised that since this matter first arose, a new headteacher has been appointed who is content with the name of the school and who is working hard to move the school forward and focus on the real task of raising standards and delivering a quality education for the pupils. However, if people refuse to let the matter rest, and are seeking to keep the issue alive by continually raising objections to the school's name, this is likely to have an adverse effect on the effectiveness of the school and the governing body.

In situations like these it is the role of the LEA to support schools and intervene if they consider it necessary. I know that LEA officers are fully aware of what is happening and are closely monitoring the situation and supporting the headteacher and governing body.

I understand the disappointment some feel about this situation. I know that they have great pride in their school and its achievements which is why they continue to seek to retain the Ysgol Gyfun Rhydfelen name. My hope is that all staff, governors, pupils and parents will accept the situation and work together for the benefits of everyone in the school community.

Best wishes,

Jane

Annex 3

Y Pwyllgor Deisebau

Petitions Committee

Gareth Jones AM
Chair, Enterprise and Learning
Committee
Welsh Assembly Government
Cardiff Bay
CF11 1NA

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff CF99 1NA

Our ref: PET-03-098

17 April 2008

Dear Gareth

PETITION : AMENDING LEGISLATION TO GIVE THE RIGHT TO CHANGE THE NAME OF A SCHOOL TO ITS GOVERNORS

The Petitions Committee discussed this petition at its meeting on 10th April, and decided to ask your committee to consider its merits and take further action if you consider it necessary.

This petition is linked to a previous petition that referred specifically to the changing of a school name. The Petitions Committee asked the Welsh Assembly Government for its view of this matter and took oral evidence from the petitioners. It emerged that the guidance issued by WAG was at odds with the legislation and was subsequently withdrawn. We wrote to the Minister for her views on this second petition and she responded robustly stating the Assembly Government's position that she 'remains of the opinion that this power [to amend the school's name] should continue to rest with the LEA'.

The Petitions Committee had sympathy with the petitioners regarding this issue, however, it was felt that since the Minister's position was very clear, there was little more it could do to progress this issue. Members agreed that individual members may wish to progress this via a members' legislative ballot, or indeed that your committee may wish to investigate the change of legislation requested by this petition.

I should be grateful if you could keep me informed of your consideration of this matter.

Yours sincerely,

Val Lloyd

**Val Lloyd,
Chair, Petitions Committee**

Pwyllgor Menter a Dysgu
Enterprise and Learning Committee
Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff CF99 1NA

Val Lloyd AM
Chair of the Petitions' Committee
National Assembly for Wales
Cardiff Bay
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29 April 2009

Dear Val

Petition to change the law regarding school naming

You wrote to me on 17 April 2008 requesting that the Enterprise and Learning Committee consider the merits of the petition seeking a change to the law dealing with the re-naming of maintained schools by transferring the ultimate decision making power from Local Education Authorities (LEAs) to governing bodies.

The petition to change the law regarding school naming in the case of Ysgol Rhydfelen/Gartholwg was discussed in a meeting of the Enterprise and Learning Committee on 3 July 2008. At Members' request, I wrote to the Minister for Children, Education, Lifelong Learning and Skills, asking for a meeting to discuss the issue. A copy of my letter is attached at Annex A. In her reply dated 18 July 2008, the Minister expressed her view that a meeting would not be appropriate. A copy of her reply is attached at Annex B.

During the course of our consideration of this petition, I have taken extensive legal advice, which I now summarise for your information. First, we considered the most expeditious way of changing the law regarding school naming. The necessary provisions are contained in Section 20 of the Education Act 2002. The Minister has indicated that she is not inclined to use the powers available to her.

The National Assembly (under the former constitutional arrangements that applied before 2007) has made regulations under section 20(2) of the 2002 Act in the form of the Government of Maintained School (Wales) Regulations 2005 ('the 2005 Regulations'). Regulations 34 and 35 set out the procedures to be followed for the making and revision of instruments of government. In very broad and simplified terms the procedures focus on discourse between the LEA and the governing body with a view to reaching agreement as to the instrument of government but, in the absence of agreement between the parties, the LEA may make or vary the instrument of government as it sees fit. The balance of the decision-making power sits firmly with the LEA. Neither procedure has an appeal mechanism.

Since our attempts to lobby the Government have proved unsuccessful, I have been advised that the only manner in which to effect legislative change would be Member- or Committee-backed legislation. Of course, the underlying theme remains the same – that of the likely response of the Government; without support any proposed legislation would undoubtedly be ill-fated.

We have considered a number of other options, such as collating a case file of examples where others have sought to change the name of their school. There is, however, and as far as we are aware, no precedent for the Ysgol Rhydfelen/Gartholwg issue.

Throughout our consideration, the petitioners have proactively expressed their concerns to me and other Members of the Committee. On 31 March 2009, I met with a group of governors, parents, pupils, and former teaching staff, representing the interests of the petitioners, to brief them on the legal position and the likely content of my letter to you. I have to inform you that much of the discussion did not centre on the need to effect legislative change, but rather how current law is being implemented. I have very deep concerns about the catalogue of evidence presented to me regarding the exclusivity of the current approach of introducing the name and branding of Ysgol Gartholwg. It would appear that appropriate democratic channels of consultation are being disregarded, which at the very least is undermining the fundamental relationship between pupils and teachers as well as between governors and the LEA.

While this marks an end to the Enterprise and Learning Committee's consideration of the petition, it is likely that others will wish to progress this issue by different means.

Owing to the grave nature of my concerns, I am copying this letter to the Minister for Children, Education, Lifelong Learning and Skills, the Minister for Social Justice and Local Government, and the Children's Commissioner.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Gareth', written in a cursive style.

Gareth Jones AM
Committee Chair

ANNEX A

Pwyllgor Menter a Dysgu
Enterprise and Learning Committee
Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff CF99 1NA

Jane Hutt AM
Minister for Children, Education, Lifelong
Learning and Skills
Welsh Assembly Government

9 July 2008

Dear Jane

Petition to change the law regarding school naming

The Chair of the Petitions' Committee wrote to me on 17 April requesting that the Enterprise and Learning Committee consider the merits of the petition seeking a change to the law dealing with the re-naming of maintained schools by transferring the ultimate decision making power from Local Education Authorities to governing bodies. I have sought legal advice on this issue.

I am advised that the most expeditious way of effecting legislative change would be for you to exercise the powers invested in you to amend Regulations made under Section 20 (2) of the Education Act 2002. I understand from your correspondence with the Petitions' Committee that you are not disposed to exercise your power in this instance. I have taken further advice on the addition of a mechanism to give an aggrieved governing body some right of recourse. Legal advisers are of the opinion that the National Assembly for Wales already has the necessary legislative competence to legislate in this area, by virtue of Matter 5.2 of Part 1 of Schedule 5 of the Government of Wales Act 2006. They have advised me that making the re-naming of a school a prescribed alteration would provide a balance in the decision-making power of LEAs and governing bodies by necessitating an open consultation and a right of recourse to a third party (an adjudicator) in the event of one party being aggrieved.

The petition and legal advice was discussed by the Enterprise and Learning Committee at its meeting last week. The Committee resolved to seek a meeting with you so that the matter might be considered further. I would be grateful therefore if you would agree to meet me to discuss the issue.

Yours sincerely

Gareth Jones AM
Committee Chair